United Nations CAT/C/IRL/2

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
20 January 2016

Original: English
English, French and Spanish only

Committee against Torture

Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure

Second periodic reports of States parties due in 2015

Ireland*, **, ***

[Date received: 23 November 2015]

* The initial report of Ireland is contained in document CAT/C/IRL/1; it was considered by the Committee at its 1002nd and 1005th meetings (see CAT/C/SR.1002 and 1005), held on 23 and 24 May 2011. For its consideration, see the Committee's concluding observations (CAT/C/IRL/CO/1).

** The present document is being issued without formal editing.

*** The annexes to the present report are on file with the Secretariat and are available for consultation. They may also be accessed from the web page of the Committee against Torture.

GE.16-00768 (E)

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List of issues prior to submission of the second periodic report of Ireland

Article 2

Reply to the issues raised in paragraph 1(a), 1(b) and 1(c)

(1a)

1. The Irish Human Rights and Equality Commission (IHREC) was established as an independent statutory body on 1st November 2014 following the merger of the Human Rights Commission and the Equality Authority.

(1b)

2. The IHREC Act 2014 was designed to ensure that IHREC, as Ireland's National Human Rights Institution, fully meets the standard of independence in accordance with the Paris Principles. The Commission has its own vote and the IHREC Director is the Accounting Officer. The Commission's Director reports directly to the Public Accounts Committee (PAC) of the Oireachtas[1] in relation to the Commission's expenditures. The Director is accountable to the Oireachtas PAC and other Oireachtas Committees, and must lay its accounts before both Houses of the Oireachtas. With regard to its Strategy Statement and Annual Report, the Commission is directly accountable to the Oireachtas.

3. An additional €2m was allocated to IHREC in the budget for 2014 (a 45% increase in State funding). Similar funding has been provided for 2015.

4. As the Commission is independent and enjoys full financial autonomy, the Department of Justice and Equality is not in a position to answer the question about how the money has been or may be expended.

(1c)

5. The Government has taken measures to reverse the cuts of the past and in Budget 2014, an additional €2m was provided for IHREC, along with an interim increase in staffing to a complement of 47, which is subject to review after 12 months. In order to ensure compliance with the Paris Principles, the IHREC Act makes it clear that all staff employed by the Commission, both full time and temporary, are under the control and direction of the Commission during any period of such employment and accordingly makes no provision for secondment arrangements. Designation of a body as a National Human Rights Institution is a matter for the United Nations. As Ireland's NHRI, the current Human Rights Commission enjoys "A status" accreditation.[2]

Reply to the issues raised in paragraph 2

6. Where a person is lawfully arrested and detained under a provision permitting for the detention and questioning of a suspect, the Criminal Justice (Treatment of Persons in Custody) Regulations, 1987, apply. These Regulations set out the:

[1] National Parliament.

[2] The IHREC Act 2014 provides for greater independence, enhanced powers and a wider mandate than the previous legislation, and has been drafted with the intention of the IHREC being recognised by the UN as Ireland's NHRI.

(a) Obligation on the Garda Síochána to make contact with a named solicitor, or another solicitor if a prisoner does not nominate a named solicitor;

(b) Obligation on the Member in Charge of the station to notify a solicitor or other person that an arrested person is in custody at the Garda Station.

7. Section 9 of the Criminal Justice Act, 2011, sets out that the questioning of a person shall not commence until such time as they have had opportunity to consult with a solicitor, with such time being excluded from the period of time that person is detained.[3]

8. The Irish Courts have recently had an opportunity to rule on the access of a person to a solicitor prior to any questioning. The *Director of Public Prosecutions (DPP) v. Gormley* and *DPP v. White*. It was held that when the accused asks for a solicitor that the accused should not be interviewed until such time as they have had an opportunity to consult with one.

9. Arising from this recent case, direction has issued from the DPP to accede to any request from a detained person to have the solicitor present.

10. In addition, section 5 of the Criminal Justice Act, 1984, specifically makes it a requirement of the Member in Charge of the station to inform the person detained without delay that he is entitled to consult a solicitor and to have notification of his detention communicated to another person reasonably named by the person detained. The Member in Charge must facilitate the contact with the solicitor and the person nominated under the provision as soon as practicable.

Reply to the issues raised in paragraph 3(a), 3(b), 3(c) 3(d) and 3(e)

(3a) and (3b)

11. COSC, the National Office for the Prevention of Domestic, Sexual and Gender-based Violence, is currently driving the implementation of the National Strategy on Domestic, Sexual and Gender-based Violence 2010-2014 and developing a strategy for 2015 onwards. A final review of the National Strategy on Domestic, Sexual and Gender-based Violence, 2010-2014 has concluded with a view to devising a new strategy. Actions not completed in the current strategy will be considered for inclusion in the follow-up strategy. Actions necessary for the ratification of the Istanbul Convention will also be considered for inclusion in the new strategy.

12. Progress reports on the implementation of the current Strategy are published on COSC's website twice yearly.

13. In 2014 COSC granted funding of just under €300,000 to organisations to continue to highlight the issue of domestic violence and of the services available to those affected by it. COSC also funds and supports 13 Domestic Violence Perpetrator Intervention Programmes. In addition the Department of Justice and Equality provided in the region of €600,000 to the domestic and sexual violence NGO sector through the Commission for the Victims of Crime for victim accompaniment services to court, police stations and sexual assault treatment units.

14. COSC is working with the relevant state agencies and departments in the sector through the data committee established under the National Strategy on Domestic, Sexual and Gender-based violence to ensure that suitable data systems are in place to collect the appropriate data to inform current and future policies and priorities.

[3] It should be noted that section 9 has not yet commenced.

(3c)

15. Statutory responsibility for services to victims of Domestic, Sexual and Gender Based Violence services has been assumed by TUSLA.[4]

16. A nationally managed structure has been put in place for oversight and support of Domestic, Sexual and Gender Based Violence services to enable more equitable provision of high quality services. There is now a national budget for domestic violence services with a single line of accountability. Additionally, in 2015, there has been consolidation of statutory funding for domestic violence refuges, with transfer of homeless funding for domestic violence refuges to TUSLA. Notwithstanding the need to achieve efficiencies across all areas of TUSLA's activity to take account of available resources, funding for frontline domestic violence refuge and support services has largely been protected from reductions. Some reconfiguration of domestic violence support service provision has begun, in order to take account of identified needs and gaps.

17. From 2016, a commissioning approach to funding of services by TUSLA will be implemented to ensure that resources are targeted in ways that can achieve the best outcomes. Developments are ongoing in 2015 within TUSLA to establish the broader framework for commissioning of services and also to implement a solid and agreed framework for service delivery in domestic violence services in partnership with service provider organisations.

18. Asylum seekers in Ireland can avail of the Direct Provision system which provides full board accommodation and supports to asylum seekers awaiting a final resolution of their status. These are not detention centres. The Reception and Integration Agency (RIA)[5] has published a Policy and Practice Document on Domestic, Sexual and Gender-based Violence and Harassment on the RIA website. The policy is currently being rolled out. Two significant provisions in the accompanying Agreed Report are as follows:

(a) RIA now has a designated women-only centre;

(b) RIA has undertaken that, where the complaint warrants it, it will seek to co-opt an independent person to assist and overview the investigation. The intention is that RIA will seek to draw from the Panel of External Investigators used by the Irish Prison Service (IPS) to investigate particularly serious complaints made by prisoners.

Judgement in CA & TA case

19. The High Court in its judgment summarised the CA and TA case as asking it to determine, inter alia, whether the direct provision system, as it currently operates, was in breach of the principle of separation of powers in the Irish Constitution; breached and/or disproportionately interferes with constitutional and fundamental rights; whether or not direct provision allowance system is unlawful or ultra vires and/or whether the denial by statutory ban of access to social welfare benefits and/or the labour market for protection applicants was unlawful.

20. There was only one matter in the case in which the Applicants were successful, in part. The Court found that certain aspects of the RIA House Rules[6] were disproportionate and unjustified to the objectives sought to be achieved. Those Rules have been altered to comply with the judgment.

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[4] Child and Family Agency since establishment of the Agency on 1st January 2014.

[5] Responsible for the operation of the Direct Provision system.

[6] Namely room inspections, monitoring of presence by way of formal signing in requirement the requirement to notify intended absence; no guests; and the complaints handling procedure.

21. The Court confirmed that the cumulative effect of direct provision on privacy and family life was not a breach of Articles 8 or 3 of the European Convention on Human Rights. The Court found the Applicants had not satisfied the Court in relation to the alleged negative effects of direct provision on family life. The Applicants failed to:

- Satisfy the Court in relation to the duration issue i.e. the length of time spent in direct provision.
- Satisfy the Court that the EU Charter of Fundamental Rights applied in relation to reception conditions.
- In establishing that direct provision allowance was an unlawful social welfare payment.
- In establishing that the direct provision scheme was in breach of the separation of powers under the Irish Constitution.

(3d)

22. As indicated in Ireland's last report the availability of Safety and Protection Orders has now been extended through the Civil Law (Miscellaneous Provisions) Act 2011 to persons who have a child in common (even where those persons do not or have never resided together). That Act also removed the requirement for an applicant for a Safety or Protection Order to have lived with another person for a prescribed period of time prior to the application.

23. The Department of Justice and Equality is currently working on legislative proposals to reform and consolidate the domestic violence legislation. A General Scheme of a Bill was published on 24th July, 2015.

Domestic Violence data

24. The vast majority of applications for domestic violence orders are made through the District Courts.

District Court	*2013*	*2012*	*2011*	*2010*	*2009*
Barring order applications	2,738	2,789	2,763	2,726	2,855
Barring orders made	1,167	1,165	1,043	1,064	1,106
Protection order applications	4,529	4,192	3,403	2,926	3,134
Protection orders made	4,142	3,849	3,085	2,672	2,867
Safety order applications	5,334	5,026	3,755	3,561	3,322
Safety orders made	2,381	2,255	1,513	1,457	1,339
Interim barring order applications	674	648	731	530	545
Interim barring orders made	522	520	569	431	451

25. The Circuit Court generally makes Domestic Violence Orders during the course of other Family Law procedures such as separation, divorce, and child custody hearings.

26. A breakdown of the number and the basis of the applications to that court is not available.

Circuit Court

	2013	*2012*	*2011*	*2010*	*2009*
Orders Made	103	119	203	170	163

27. The Courts Service records data on "out of hours" sittings in criminal proceedings, but there is no data yet available on the civil proceedings for a protection order or an interim barring order at special sittings.[7]

28. Usually Domestic Violence applications are heard in the District Court Area wherein the applicant resides, but an emergency application can be heard anywhere in the District. The Domestic Violence Acts and the relevant provisions of the District Court Rules, when construed together, provide that if the judge for the District is not available, another judge can hear the matter, but the hearing must still take place in the District.

29. There are two distinct situations where applications are heard outside of normal court hours.

- Where the court office is open but the court itself has risen for the day or is not sitting on that day; outside of the larger cities, there is not always a court sitting each day in each District. In these cases the applicant is asked whether it would be safe for them to wait a day or two until there is a court sitting available. It is reported as rare that the applicant cannot safely wait until the next day. It may be apparent that a delay could put the applicant (or dependent children) in grave danger. In these cases the clerk of the court will contact the judge assigned for the District (or another judge if that judge is unavailable) and explain the gravity of the application. The judge would decide whether it warrants a special sitting. The Court Service has reported that they have no record of a judge refusing to sit when requested.
- Requests received outside of office hours are much rarer, in every District there is a clerk on-call to take requests for special sittings from An Garda Síochána - almost invariably for criminal matters. There have been a handful of occasions where An Garda Síochána has made known to the on-call clerk of a potential Domestic Violence application and on one occasion a solicitor contacted the clerk directly. In these cases special sittings were arranged.

30. The Government have recently approved signature of the Istanbul Convention (on preventing and combating violence against women and domestic violence) and the necessary arrangements are in train with a view to completing signature in November 2015. The provisions of the Convention and the legislative and administrative arrangements that would be necessary to allow ratification by Ireland are being examined.[8]

31. Statistics relating to Sexual Offences and Breach of barring order/safety order/exclusion order for the period 2009-2013 of those convicted by age and sex are at Appendix A. Statistics on recorded offences where acts of violence were committed and the victim was female for the period 2009-2014 are also included.

[7] These are the orders that would be sought in relation to immediate danger.

[8] These include consolidated and reformed domestic violence legislation, a Sexual Offences Bill, the Children and Family Relationships Act, and a Victims Rights Bill. The Department of Justice and Equality is well advanced in its development of legislative measures which will assist Ireland in ratifying the Convention.

(3e)

32. Current Irish immigration legislation places no impediment whatever to the granting of independent immigration status to a person who is the victim of domestic violence. This has already been done in a number of cases. New procedures have been advertised on the INIS website since 2012. (http://www.inis.gov.ie).

33. Under this procedure, migrants who find themselves victims of domestic violence and whose immigration permission is as a dependent can apply for independent status. A migrant victim of domestic violence would have the same legal protections as a non-migrant.

Reply to the issues raised in paragraph 4(a), 4(b), 4(c) and 4(d)

(4a)

34. The Protection of Life During Pregnancy Act 2013 regulates access to lawful termination of pregnancy in accordance with the *X* case[9] and the judgment of the European Court of Human Rights (ECtHR) in the *A, B and C v. Ireland* case. Its purpose is to confer procedural rights on a woman who believes she has a life-threatening condition, so that she can have certainty as to whether she requires this treatment or not.

35. The Act upholds the right to life of the unborn where practicable, and the right to life of a pregnant woman whose life is threatened by her pregnancy, as required by Article 40.3.3. It also creates procedures which apply to the lawful termination of pregnancy.

36. Section 5 of the Act repeals sections 58 and 59 of the Offences Against the Person Act 1861.

(4b)

37. A Guidance Document to assist health professionals in implementing the Act was published in 2014 and is available on the Department of Health's web site. The relevant professional bodies continue to be responsible for issuing clinical guidelines to their members in relation to medical conditions that might be relevant to the Act.

38. In addition, the Health Service Executive's (HSE) National Clinical Care Programme in Obstetrics and Gynaecology was established two years ago, with the overall aim of improving choices in women's healthcare.

39. The Protection of Life During Pregnancy Act provides for a mechanism whereby a woman can have her case reviewed within a given time period if she wishes to have the clinical assessment made by the original treating team reviewed, or if she has been unable to obtain an opinion. A Review Committee, nominated by the appropriate independent professional bodies and the HSE, will be established within a specified timeframe by the HSE for this purpose. This review pathway is in addition to, and not in substitution for, the option of the woman seeking a second opinion as with normal medical practice. The pregnant woman (or a person acting on her behalf) shall be entitled to be heard by the Review Committee (section 14).

40. Prior to the commencement of the Act, confirmation was received from the HSE that all the necessary arrangements for the commencement of this Act had been put in place.

[9] Article 40.3.3 of the Irish Constitution, as interpreted by the Supreme Court in *Attorney General v. X*, provides that it is lawful to terminate a pregnancy in Ireland if it is established as a matter of probability that there is a real and substantial risk to the life, as distinct from the health, of the mother, which can only avoided by a termination of the pregnancy.

The Act is in line with the relevant Constitutional provisions, the Supreme Court judgment in the *X* case and the judgment of the ECtHR in the *A, B and C v. Ireland* case.

41. Furthermore, the proposed establishment of the National Women and Infants Health Programme will address and improve maternity services across the country. The Programme will span the delivery of maternity services across primary, acute and community care.

(4c)

42. On foot of the judgment of the ECtHR in the *A, B and C v. Ireland* case, the Government established an Expert Group to make recommendations on how the matter should be properly addressed.

43. The Government approved the publication of the Report of the Expert Group on *A, B and C v. Ireland* judgment of the European Court of Human Rights in November 2012. In December 2012, the Government approved the implementation of the judgment of the ECtHR in the *A, B and C v. Ireland* case by way of legislation with regulations, within the parameters of Article 40.3.3 of the Constitution as interpreted by the Supreme Court in the *X* case. They also agreed to make appropriate amendments to the criminal law in this area.

44. No amendments are currently envisaged to this Protection of Life During Pregnancy legislation.

(4d)

45. Allegations of breaches in crisis pregnancy counselling practice were published in the Irish Independent in October 2012 based on reports from a group of women who visited a number of State-funded crisis pregnancy counselling services posing as genuine clients who were experiencing crisis pregnancy.

46. In response to these allegations an audit of the policies, protocols, procedures, and guidelines (PPPGs) of Crisis Pregnancy Counselling Services funded by the HSE Crisis Pregnancy Programme (HSE CPP) was undertaken by the Quality and Patient Safety (Q&PS) Audit function of the HSE. Separate to this the Gardaí conducted an investigation of the complaints made directly to them by the group of women concerned.

47. The audit found that all crisis pregnancy counselling services had formal signed agreements with the HSE that clearly stipulated the need to comply with the Abortion Information Act. However, the performance in relation to some PPPGs was limited, particularly in relation to quality assurance, supervision and the Act. The Audit also found that PPPGs did not adequately address the issue of disclosure of a possible termination in a medical setting should a woman experience complications post abortion. The Audit report recommended that additional guidance be developed for service providers to assist them in developing PPPGs in these areas. The HSE CPP obtained advice on these matters and developed guidance for service providers to assist them in developing PPPGs in this area. This information is included on the HSE CPP's websites Positiveoptions.ie and Abortionaftercare.ie.

Reply to the issues raised in paragraph 5(a), 5(b), 5(c) and 5(d)

(5a)

48. In relation to the numbers of women identified with Female Genital Mutilation (FGM) the studies available for use are mainly African. Current knowledge on FGM acknowledges the growing trends of FGM amongst countries like Malaysia and Thailand.

However it must be acknowledged that Ireland does not have data on this topic relating to these countries.

49. There have been three FGM prevalence estimation studies in Ireland in 2008, 2010 and 2013 all of which used the "extrapolation-of African-prevalence-data" methodology. The most recent study which used data from the 2011 national census estimates there are 3,780 women living in Ireland who have undergone FGM. It is important to note that these figures are estimates only. In addition the 2013 UNHCR report "Too Much Pain: Female Genital Mutilation & Asylum in the European Union" which examined data from 2008 to 2011 on asylum applicants from FGM practising countries included data relating to Ireland. Future FGM prevalence studies are planned for Ireland when new census data becomes available.

50. Ireland is currently one of the pilot countries in a European Institute for Gender Equality (EIGE) commissioned study estimating the number of girls at risk of FGM in selected EU Member States. Data arising from this study was published by EIGE in Lisbon in June, 2015. Ireland was chosen as a pilot country, for the study due to having a population who have undergone FGM or are at risk of FGM and because there are visible efforts in Ireland to eliminate FGM supported by governmental initiatives according to EIGE. In addition Ireland offered other factors important for the study calculations, such as administrative records available that could provide enhanced FGM risk estimation figures.

51. The HSE is funding the Irish Family Planning Association (IFPA) towards establishment of a specialist clinic towards management/treatment of women who have been subjected to FGM. This service was officially launched by the Minister of State in May 2014.

(5b)

52. The Criminal Justice (Female Genital Mutilation) Act 2012 was signed into law in Ireland on 2 April 2012 and has been effective since 20 September 2012. It is now a criminal offence for someone resident in Ireland to perform FGM. Section 3 of the Act provides an innovative offence of removal from the State of a girl for the purpose of FGM. This Act is anticipated to have a strong deterrent effect on the continuation of FGM by practicing communities now residing in Ireland. From a healthcare perspective, this legislation was especially essential in order to enable healthcare professionals to follow clear guidelines in referring and caring for women who have undergone FGM as well as identifying and safeguarding girls who may be at future risk of FGM.

53. The Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012 was commenced in 2012 and it includes reference to the Criminal Justice (Female Genital Mutilation) Act 2012. This Act places an obligation on persons who have knowledge of any serious offence, including offences such as FGM, against children and vulnerable adults to inform the Gardaí. This Act shifts reporting of many offences against children and vulnerable adults, including the crime of FGM, from simply a moral obligation to a criminal offence with related penalties for not reporting such crimes.

54. Child protection is an important consideration in relation to FGM and is referenced accordingly in the HSE "Child Protection and Welfare Practice Handbook" (2011). FGM was also referenced in the HSE National Intercultural Health Strategy 2007-2012 and in the current HSE Policy on Domestic, Sexual and Gender Based Violence.

55. Ireland's first National Plan of Action to Address FGM 2008-2011 was developed within the framework of a European Commission Daphne funded project along with 15 other EU countries. The Plan was launched in November 2008.

56. There were no key performance indicators (KPIs) in the first National Action Plan but the Second National Action Plan which will be launched in 2015 is currently being developed by multi-disciplinary and inter-agency working groups of experts – will contain KPIs.

5(c)

57. A key goal of Ireland's Plan of Action was stated as "To provide high quality, appropriate health care and support for women and girls who have undergone FGM".[10] The Plan also contained a number of other recommendations and goals, including some in respect of legislation, the asylum process, community abandonment of FGM etc. From 2009 onwards, the HSE National Social Inclusion Office has worked closely with key partners in progressing prioritised actions. Governance arrangements are assured via a small expert Advisory Group and relevant developments in relation to good practice in FGM prevention, policy and care in other EU countries are monitored.

58. FGM is also included as a risk factor in the new National Maternity Health Care Record,[11] this will eventually allow for collation of data on pregnant women in Ireland who have undergone FGM and for related individual, comprehensive maternity care plans to be developed for patients.

59. The HSE has printed – and in partnership with AkiDwA – disseminated the FGM and the Law leaflets in 2012 and 2013. The leaflet is available at http://www.akidwa.ie.

60. AkiDwA has carried out community engagement programmes, information workshops on FGM, conducts a Community health ambassador programme, and engages in the use of social media to highlight the issue of FGM.

61. The HSE has funded the production and dissemination of IFPA Women's Health Service leaflets in 2014. The leaflets:

- Provide information in appropriate languages for women from FGM affected communities.
- Promote the free and confidential specialist treatment service for women and girls who have undergone FGM opened in 2013.

62. Onward referral for specialist gynaecology services, child protection and accurate clinic records for data collation are key aspects of this new service.

63. The HSE National Social Inclusion Office funded the print of the second revised and updated version of "FGM Information for Health-Care Professionals Working in Ireland" by AkiDwA and the Royal College of Surgeons in Ireland. The updated version contains information on the Criminal Justice (Female Genital Mutilation) Act 2012, the role of health-care professionals in protecting girls from FGM and updated Irish FGM prevalence estimates. This resource has been widely disseminated and is also available on numerous relevant websites.

64. An Information Guide for Education Professionals on FGM has been developed and launched by AkiDwA for use by teachers in school settings. The Guide provides information on FGM for teachers and outlines how to recognise when a girl may be at risk

[10] An Bord Altranais "Practice Standards for Midwives" (2010) and publication by the HSEs' Sexual Assault Treatment Units and the Department of Justice and Equality of: "Recent Rape/Sexual Assault: National Guidelines on Referral and Forensic Clinical Examination in Ireland" (3rd edition 2014).

[11] A standardised patient chart used for all pregnant women in Ireland since 2012.

of FGM and the legal obligations and suggested interventions in relation to FGM and child protection. The guide is currently being disseminated nationwide.

65. It is anticipated that amendment to the Children's First Bill will be made to include the Criminal Offences Act, (2012) (FGM) prior to enactment. This in turn will allow inclusion into the Children's First Guidelines and as such extensive dissemination throughout the HSE and funded bodies from the Department of Health to ensure that information, education and reporting of such abuse is given to the health workforce within a growing diverse population.

(5d)

66. COSC is currently examining the Council of Europe's convention on preventing and combating violence against women. Under terms of this convention the practice of FGM is condemned and it provides that there should not be a dual criminality requirement. The removal of dual criminality from FGM legislation could be examined in the context of ratification of the Convention by Ireland. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, entered into force in August 2014.

Article 3

Reply to the issues raised in paragraph 6

67. Ireland does not tolerate the use of its airspace or airports for any illegal purpose, including torture, rendition or the unauthorised detention of any individual.

68. The Government has stated categorically that the use of Irish airspace and airports for extraordinary rendition operations has not been, and will not be, permitted under any circumstances.

69. Allegations have been made from time to time that Irish airports have been used by the United States for purposes of extraordinary rendition. The Government sought and received assurances from the Government of the United States that the extraordinary rendition of prisoners had not and would not take place through Irish airports. The Government made clear that such activity would be illegal under Irish law.

70. A number of complaints concerning alleged use of Irish airports for unlawful activity have been investigated by An Garda Síochána. However, no evidence of rendition was disclosed in any of the investigations.

Reply to the issues raised in paragraph 7

Enactment of the Immigration, Residence and Protection Bill

71. In its Statement of Government Priorities 2014-2016 the Government undertook to legislate to reduce the length of time the applicant spends in the protection system through the establishment of a single application procedure, to be introduced by way of a Protection Bill, with work on an Immigration and Residence Bill to continue separately. In March 2015, the Minister published the General Scheme of the International Protection Bill. This reform will simplify and streamline existing arrangements and provide applicants with a final decision on their protection application in a more straightforward and timely fashion and will also, reduce the length of time that applicants spend in the Direct Provision system. The aim is to have the Bill enacted by the end of 2015.

Rights of migrants to judicial review or administrative action

72. The right to seek judicial review is a constitutional entitlement. The law governing the taking of judicial reviews in relation to decisions taken in the asylum/immigration area which may give rise to a person's exclusion or removal from the State (i.e. section 5 of the Illegal Immigrants (Trafficking) Act 2000) was amended via the Employment Permits (Amendment) Act 2014. The main changes made to the law in this regard were the removal of the "motion on notice" provision and the extension of the period of time allowed to make an application for leave to take a judicial review from 14 to 28 days. These arrangements will be extended to decisions under the International Protection Bill.

Amendments to legislation that would make an appeal before the RAT have a suspensive effect on the impugned decision

73. Given the context, this comment appears to refer to an appeal before the RAT against a determination by the Refugee Applications Commissioner to transfer a person to another EU Member State in accordance with the EU Dublin Regulation. The Dublin Regulation (EC) No 343/2003 was recast in June 2013 as Regulation (EU) 604/2014. Article 27 of this Regulation provides that the lodging of an appeal against a transfer decision has a suspensive effect. The recast Dublin Regulation which came into effect from 1 January 2014 is directly applicable in Member States. In November 2014 the Minister commenced the European Union (Dublin System) Regulations, 2014 which support the operation of the recast Dublin Regulation in the State.

Results of any investigations undertaken to ensure that due process is applied in the processing of applications for refugee status

74. All asylum applications and appeals are processed in accordance with the Refugee Act, 1996 and other relevant statutory provisions. High quality and fair decision-making in all cases continues to be a key priority at all stages of the asylum process.

75. Quality assurance systems are in place to ensure the highest standards in investigation and decision-making in relation to the determination of refugee status and subsidiary protection. Key aspects of the quality assurance systems in place have been developed with the assistance of the UNHCR.

Criteria for recognition of asylum seekers

76. In relation to the recognition of a person as a refugee the principal provisions in Irish law are Section 2 of the Refuge Act 1996 and Regulation 9 of the European Communities (Eligibility for Protection) Regulations 2006.

77. Section 2 of the Refugee Act, 1996 defines a refugee as "a person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his or her nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his or her former habitual residence, is unable or, owing to such fear, is unwilling to return to it…"

78. Regulation 9 of the European Communities (Eligibility for Protection) Regulations 2006 refers to Acts of persecution and states, inter alia, that

> 9.(1) Acts of persecution for the purposes of Section 2 of the 1996 Act (Refugee) must:
>
> (a) be sufficiently serious by their nature or repetition as to constitute a severe violation of basic human rights, in particular the rights from which derogation

cannot be made under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms; or

(b) be an accumulation of various measures, including violations of human rights which is sufficiently severe as to affect an individual in a similar manner as mentioned in subparagraph (a).

(2) Acts of persecution as qualified in paragraph (1) can, inter alia, take the form of—

(a) acts of physical or mental violence, including acts of sexual violence…

Reply to the issues raised in paragraph 8

79. The Irish prison system has a dedicated remand prison, Cloverhill Prison, and every effort is made to utilise this facility to its maximum in order to meet the conditions of Rule 71 of Statutory Instrument 252 of 2007.[12] With respect to non-sentenced immigrant prisoners, every effort is made to detain as many of these prisoners as possible in Cloverhill prison. Sentenced non-nationals are dispersed throughout the prison estate in the normal course.

Articles 5, 7 and 8

Reply to the issues raised in paragraph 9

80. Ireland has not rejected any request for extradition by another State of an individual suspected of having committed an offence of torture.

Article 10

Reply to the issues raised in paragraph 10(a), 10(b) and 10(c)

(10a)

Irish Prison Service

81. The Irish Prison Service College (IPSC) aligns staff training to reflect the mission statement and core values of the Irish Prison Service (IPS). The IPS operates within a rule-of-law framework based on human rights principles.

82. Training provided to prison staff places significant emphasis on the human rights of prisoners. The training provided places significant emphasis on the Prison Rules 2007, European Convention on Human Rights, the Standard Minimum Rules and the work of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment.

83. From 2007-2012, during initial induction training, Human Rights and Prison law is explored extensively in the Higher Certificate in Custodial Care (HCCC).

[12] Rule 71 states that unconvicted prisoners shall, in so far as is practicable and subject to the maintenance of good order and safe and secure custody, be accommodated in areas that are separate from those in which convicted prisoners are accommodated or to which convicted prisoners have access, and convicted prisoners shall, as far as is practicable, not be permitted access to areas to which unconvicted prisoners have access at those times when unconvicted prisoners have such access.

84. Training and information in relation to human rights is provided on an ongoing basis for all prison staff.

85. All Training Liaison Officers (TLOs) assigned prior to 2009 in the prisons have copies of Human Rights Awareness and Intercultural and Racism Awareness programmes which are delivered to staff.[13]

86. In 2012, the IPSC in partnership with the Irish Human Rights Commission (IHRC) developed a tailored, prison specific Human Rights programme for IPS staff which focuses on the human rights and legislative framework along with the practical application of principles of human rights, such as dignity, respect, equality, proportionality and transparency. To further develop the programme, IPSC staff have arranged and attended a series of meetings with the Pavee Point Traveller & Roma Centre management team in order to further strengthen awareness of the needs of Travellers, Roma and other vulnerable groups in prison.

An Garda Síochána

87. The Garda Síochána has assigned a specific office to have direct responsibility for human rights considerations to be applied prior to any instruction being issued. The Garda Síochána has also put in place a number of policies which are grounded on the obligations arising out of the Convention on Human Rights. In this regard, the organisation has drafted a policy concerning the use of force against persons who are being arrested or in circumstances where members of the Garda Síochána are interacting with members of the public.

(10b)

Irish Prison Service

88. The Children First Bill, 2014 is designed to strengthen the safeguarding of children, put key elements of Children First National Guidance for the Protection and Welfare of Children 2011 on a statutory footing and introduce the mandatory reporting of child protection concerns for key groups of people providing services to children.

89. Under the requirements of *Children First*, all organisations must identify an adequate number of Designated Liaison Persons (DLPs), who will act as points of contact for reporting child welfare concerns. All Designated Officers, Designated Liaison Persons (DLPs), and other relevant staff must receive appropriate training. In addition, work is ongoing in relation to the development and implementation of appropriate awareness raising measures in the IPS.

Child Protection Training

90. Officers were nominated to perform as DLPs in the majority of prisons and received a three day "keeping children safe" programme delivered by the HSE. A child protection training programme co-developed by the IPSC and the HSE, was arranged for delivery in prisons. Almost 90% of staff in St. Patrick's, Wheatfield and Dóchas Centre[14] received training.

91. In addition, as part of the Families & Imprisonment Project in Limerick prison, there is a draft child protection policy in place. Child protection training for all staff involved in

[13] The Human Rights Awareness programme addresses Prisoner rights, EU and UN conventions, Inspector of Prisons and CPT visits, Council of Europe and Human Rights.

[14] Dóchas Centre is a closed female prison located on Mountjoy Prison campus, Dublin.

the project has commenced in Limerick Prison. Also, a bespoke programme for Family Liaison Officers commenced in late 2014.

92. Following the decision to relocate young prisoners (17-20 year olds) in IPS care from St Patrick's Institution to designated units in Wheatfield Place of Detention, the IPSC designed and delivered a number of bespoke learning and development programmes to equip designated staff with the key skills and attributes they required to fulfil their roles.

Mental Health Awareness

93. The IPSC has developed a new Mental Health Awareness programme. Aimed at prison staff, the programme was designed to standardise the service's approach to mental health awareness programmes and will be delivered across the prisons estate during 2015-6.

94. To support the implementation of a gender sensitive approach, and in response to the Joint Probation Service/IPS Women's Strategy 2014-2016 titled "An Effective Response to Women who Offend", the IPSC has developed and delivered a "Women Awareness Staff Programme" (WASP) for officers working with female prisoners. WASP has been introduced to assist staff in a practical way so that they can work with women in a way which offers women equivalent respect according to their needs.

95. The College also facilitates a "Dealing with matters of Domestic and Sexual abuse within the prison population" course for staff.

96. IPSC and the HSE are in the final stage of developing a bespoke suicide and mental health awareness programme for women prisoners.

97. Training Liaison Officers within each prison are provided with material and are trained to deliver Equality and Diversity modules.

98. The IPSC has restructured its approach to designing training interventions for staff working with women prisoners to reflect best international practice.

An Garda Síochána

99. The Garda Síochána has instructed its members to operate in accordance with legislation and Regulations regarding the detention of prisoners. The Criminal Justice (Treatment of Persons in Custody) Regulations 1987 at 17(2) states, a person in custody shall not be searched by a person (other than a doctor) of the opposite sex.

100. With regard to prisoners under 18 years of age, the treatment of persons in custody regulations provide for additional regulations which apply during their detention. When a foreign national is arrested and taken to a Garda station they are given a written notice of their rights while detained, i.e. Form C72(s).

101. On this notice the prisoner is informed, in their own language, if available, that where necessary the services of a translator shall be obtained to assist in their interactions with the Garda Síochána. The C72(s) informs the person of their right to contact their home consulate/embassy.

102. The Garda Síochána investigative interviewing model has been put in place. This model is a framework policy to ensure that the interviewing methods used by the Garda Síochána are designed to obtain the most accurate and correct statements from a person giving an account to the Garda Síochána.

(10c)

Health Sector

103. Robust measures are in place to ensure the safety and dignity of all persons who are involuntarily detained in approved centres. Section 32 of the Mental Health Act 2001 established the Mental Health Commission as an independent Statutory body, whose principal functions are to promote, encourage and foster the establishment and maintenance of high standards and good practices in the delivery of mental health services and to take all reasonable steps to protect the interests of persons detained in approved centres under the Act. The Commission has developed a quality framework applicable to all mental health services in the public, voluntary and independent sectors. One of the standards in the framework specifically states that Service users receive services in a manner that respects and acknowledges their specific beliefs and experiences, and a criteria used for this standard is that service users experience receipt of care that is in compliance with equality legislation and prohibits discrimination on the grounds of gender, civil status, sexual orientation, religion, age, disability, ethnicity, membership of the Traveller community or social class.

Irish Prison Service

104. It is the policy of the IPS that all persons will be treated with dignity and respect as part of the prison community. The IPS has committed to introducing a Dignity at Work Charter and launching a prison wide dignity and respect campaign. The IPS also has a Bullying and Harassment Policy which covers prohibition of discrimination in the workplace.

105. Any prisoner who believes that there is a threat to their safety in the general prison population may seek to go "on protection". The immediate separation of prisoners from the general prison population or from specific prisoners identified as presenting a threat demonstrates the prison management's commitment to ensuring their safety and security. Persons under protective custody are reviewed every month.

106. The IPS has facilitated an "Effective Investigations Training Programme" for all prison managers. The IPSC supports the Operations Directorate in providing training for independent "Category A" complaint investigators. The IPSC has facilitated training and briefing sessions for Governors, Prison Complaints Liaison Officers and TLOs to ensure that knowledge of the new procedures is disseminated across all grades. Support material for such programmes are provided on the college e-learning website.

Article 11

Reply to the issues raised in paragraph 11(a), 11(b), 11(c) and 11(d)

(11a)

107. The average number in custody for 2014 was 3,916 a reduction of 10.8% on the 2011 average. Significant investment has taken place in our prison estate in recent years. The opening of a new 300 space accommodation block in the Midlands Prison in 2012 facilitated the reduction in the number of prisoners in custody in Mountjoy, Cork and Limerick prisons thus reducing the overcrowding that those prisons have experienced for many years.

108. In April 2012, a 40 month capital plan was published as part of the Strategic Plan. The Plan is well advanced. The complete refurbishment of the A, B, C and D wings of Mountjoy Prison has now been completed and slopping out has ended in Mountjoy Prison.

109. The construction of a new prison in Cork commenced in January 2014 with a completion date by the end of 2015. The new facility will be ready for occupation early in 2016. All cells will have full in-cell sanitation.

110. Subject to resolution of some issues of planning consent the redevelopment of Limerick Prison is to go to tender in late 2015. Commencement on site should occur early in the third quarter of 2016. The IPS anticipates completion of this build in Q3 2018.

111. This programme has resulted in the number of prisoners slopping out reducing by almost 70% since 2011. (1,003 beginning of 2011 to 303 in April 2015). There are no plans for developments on the Thornton site, presently. A working group was established in January 2015 to look at options for the future use of the Thornton Hall house and lands. The group was asked to review potential options for th lands and house and make recommendations to the Department of Justice and Equality on how best to maximise the value to the State.

112. The Group comprises officials from the Department of Justice and Equality, the Office of Public Works and the IPS. The group have met on a number of occasions since January 2015 and their report is currently being drafted.

(11b)

113. The Criminal Justice (Community Service) (Amendment) Act 2011 was commenced on 1st October 2011 and requires judges, when considering imposing a sentence of imprisonment of 12 months or less, to first consider the appropriateness of community service as an alternative to imprisonment.

114. The Fines (Payments and Recovery) Act 2014 was signed into law by the President on 16 April 2014. This legislation will ensure that there are sufficient alternatives available to courts to reduce the need to commit anyone to prison for the non-payment of fines and makes community service an integral part of the fine recovery system. It is envisaged that the system will be operational from January 2016.

115. The drafting of the Criminal Justice (Community Sanctions) Bill 2014 was approved in February 2014. This new legislation will replace the Probation of Offenders Act 1907 with modern provisions dealing with community sanctions and the role of the Probation Service in the criminal justice system. It will facilitate the effective and efficient use of community sanctions by the courts and will ensure that the courts have a wide range of appropriate options for dealing with persons who have committed minor offences. The legislation also takes account of the interests of victims of crime by making it a statutory requirement for the courts to have regard to the interests of victims when making decisions about community sanctions.

116. A Working Group was established in September 2012 to conduct a Strategic Review of Penal Policy. The Group carried out a strategic review of penal policy examining all aspects of penal policy, including the use of non-custodial sanctions as an alternative to custody. The Group submitted its final report in July 2014. The report represents a written penal policy with the core principles of rehabilitation and reintegration. Alternatives to custodial sentences are confirmed as the first choice of sanction for both adults and juveniles. An Implementation Oversight Group has been established, independently chaired by Dr Mary Rogan, Head of Law at Dublin Institute of Technology and has commenced work. The Group is expected to present its first report to the Minister in November 2015.

117. The IPS has also initiated substantial changes with regard to releasing of prisoners on temporary release. Prisoners released early from custody are now placed on appropriate structured programmes of temporary release, including the Community Return Programme and Community Support Schemes.

118. Community Return is an initiative whereby carefully selected prisoners, serving sentences from 1 to 8 years, can be granted reviewable temporary release coupled with a requirement to do community service work. 1,216 prisoners have taken part in the Community Return Programme since October 2011, and 909 have completed the programme.

119. Community Support Schemes have been set up in Cork Prison, Mountjoy Campus, West Dublin Campus and Limerick prisons in an attempt to address the recidivism levels of those serving sentences of under 12 months from those catchment areas.

(11c)

120. Work continues on the Inspection of Places of Detention Bill which will facilitate implementation of the Optional Protocol to the Convention Against Torture and Other Cruel Inhuman and Degrading Treatment or Punishment (OPCAT). All appropriate options to fulfil the functions of National Preventative Mechanism (NPM) are being examined aimed at implementing the OPCAT optimally once legislation has been enacted.

(11d)

121. Legislative measures are necessary to enable ratification.

122. The Inspection of Places of Detention Bill will, provide for the designation of national bodies as NPMs.

123. Independent bodies already inspect places where persons are deprived of their liberty, including the Inspector of Prisons, the Health Information and Quality Authority (HIQA) and the Inspector of Mental Health.

Reply to the issues raised in paragraph 12

124. See points made previously in 11.

Reply to the issues raised in paragraph 13

125. The IPS has successfully developed a policy on the use of close supervision cells and safety observation cells. This Policy provides guidance to staff on the use of Close Supervision Cells within the IPS. It also makes a clear distinction between close supervision cells which are used for managing violent or distressed prisoners and safety observation cells, which are to be used only for medical health reasons

Reply to the issues raised in paragraph 14

126. An established system of clinical audit, which measures compliance with Healthcare Standard 1 (Nursing Committal Assessment), is now in place. The implementation of a policy on the Use of Safety Observation Cells (Seclusion) has witnessed a significant reduction in the use of seclusion, as a response to people with mental health problems. Compliance with this policy is also audited.

127. The use of formal mental health risk assessments has proved beneficial in evidencing clinical decision making. Increased utilisation of the IT facility, which facilitates discipline staff alerting healthcare staff of the impending discharge or transfer of high healthcare risk patients has improved through care processes.

128. Opiate substitution treatment is now available in all closed prisons. In addition the roll out of Higher Support Units/Additional Monitoring Units, as a response to people with physical and mental health vulnerabilities, also has had a positive impact on the patient

experience. Provision of nurse led Hepatitis C treatment has also improved patient access to Hepatitis C treatment.

129. An IT mechanism has been established to ensure effective nursing handover.

Reply to the issues raised in paragraph 15(a), 15(b), 15(c), 15(d) and 15(e)

(15a)

130. Prison management have to ensure that gang members are being managed on a daily basis through segregation and separation.

131. In Wheatfield prison 2012/2013 a weapons amnesty organized by management and Irish Red Cross inmate volunteers effected a reduction in cutting weapons assaults from 97% to only 6% in one year.

132. The Operational Security Group (OSG) core functions include gathering and collating intelligence information on criminal gang members in prisons, carrying out intelligence led searches and preventing the flow of contraband into the prisons.

133. Efforts are made on a continuous basis to prevent the flow of contraband, by for example, the installation of nets over exercise yards, vigilant observation of prisoners by staff, enhanced CCTV monitoring, the stricter control of visits and the use of prisoner and random cell searches on a daily basis.

134. Random searches of cells and their occupants have uncovered significant quantities of contraband in recent years. Nevertheless, the IPS recognises that constant improvements are required in this area. These searches have been particularly effective and local intelligence indicates that the availability of mobile phones has decreased across the prison system. The number of mobile phones seized in prisons has reduced, year on year, since 2009. This is as a direct consequence of the security measures introduced, including airport style scanners and x-ray machines, which are in operation at the entrances of all the relevant closed prisons.

135. Broad programmes of education are provided to deliver a high quality, broad, flexible programme of education that helps prisoners cope with their sentence, achieve personal development, prepare for life after release and establish an appetite and capacity for life-long learning.

136. There are over 100 workshops and service activities across the prison estate with a current work station capacity of 1,275.

(15b)

137. The Travellers in Prison Initiative (TPI) has been developed with the full support and cooperation of the IPS to support existing programmes and policy development, to provide more co-ordination and to set up new projects aimed at assisting Travellers in prison and at reducing the number of Travellers in Irish prisons. Appointed Coordinators will be visiting all prisons, including Cork to assess current service delivery to Travellers and establish a benchmark for Traveller experiences in Irish prisons.

138. A 2015-2018 Strategic Plan for the TPI was agreed with a commitment of €70,000 a year for three years from the Trust.

(15c)

139. The following training programmes are available to IPS staff:

- Control and restraint training

- Restorative Practices in Prisons
- Conflict management
- Enhanced Communications

Red Cross Project

140. Irish Red Cross programme has adopted an optional module on violence reduction awareness in prisons for prisoners.

(15d)

Enquiry into the death of Gary Douch

141. On 1 May 2014, the Report of the Commission of Investigation into the death of Gary Douch was published.

142. The Report contained several conclusions relating to the management, medical treatment and psychiatric care of Stephen Egan prior to and subsequent to the killing by him of Gary Douch. The Commission recognised the many significant improvements which have been put in place since 2006, including reductions in prison overcrowding, investment in prisoner accommodation and improved health services for prisoners.

143. Having considered the Report, the Government decided to refer the Report to the Interdepartmental Group (IG) to examine the issue of people with mental illness coming into contact with the criminal justice system. The IG was directed to consider the recommendations in a cohesive way and to report back to the Ministers with an implementation plan within three months.

144. The IG proceeded to examine the recommendations of the Commission of Investigation which relate to persons with mental illness and the criminal justice system and submitted an Implementation Plan for those recommendations to the Ministers in September 2014.

145. Those recommendations requiring legislative amendments that fall within the remit of the Department of Justice and Equality are being progressed in line with the recommendations of the IG.

146. The IPS has reported that significant progress has been made and that a comprehensive action plan has been put in place to ensure that the Commission's recommendations relating to the Service are being implemented. Actions in relation to recommendations not yet complete are being progressed and the Minister for Justice and Equality has requested that implementation of these actions be closely monitored.

147. Progress is also being made by the Department of Health including plans to replace the existing Central Mental Hospital and to otherwise enhance forensic mental health services nationally.

An Garda Síochána

148. A report was compiled by An Garda Síochána into this matter and one of the recommendations made therein was that there should be "development and implementation of a protocol on the Management of Risk in the Prison System".

149. The IPS has identified the need to share information, particularly with regard to high risk prisoners and how important this is in the allocation of the prisoner to the appropriate place.

150. The IPS has now asked An Garda Síochána to examine systems and procedures which help with identifying and sharing appropriate information between An Garda Síochána and the IPS prior to a person entering the prison system, which will allow the prison authorities risk assess the prisoner. In this regard, work is currently underway to help draw up systematic procedures in order to ensure the proper and efficient management of risk in the transfer of prisoners between the two agencies.

Other Deaths in Custody

151. Since 1 January, 2012, the death of any prisoner in custody or on temporary release is the subject of an independent investigation by the Inspector of Prisons.[15]

152. The Inspector's investigation and reports are part of a three pronged process, the other elements being investigations by An Garda Síochána, and investigations and inquests conducted by Coroners.

153. The circumstances of each death in custody and incident of self-harm are also examined by a Local Suicide Prevention Group in each institution.

154. In addition the IPS National Suicide and Harm Prevention Steering Group provides a forum for collating the reports of the Local Suicide Prevention Groups, considering reports on death in custody from the Inspector of Prisons and disseminating key findings throughout the prison system.

15(e)

155. The IPS is committed to introducing appropriate assessment procedures to inform their prisoner placement policy to ensure that prisoners are accommodated appropriate to their security status. The roll-out of the various assessment tools is well under way.

Reply to the issues raised in paragraph 16

156. See reply to paragraph 8.

Reply to the issues raised in paragraph 17

157. Since May 2012, 16 year old boys were removed from St. Patrick's Institution and have been detained in the Children Detention Schools (CDS).

158. In December 2013, sentenced 17 year olds were transferred from St Patrick's to a dedicated unit in Wheatfield pending the opening of the new children detention facilities in Oberstown.

159. To facilitate this transfer, Wheatfield was re-designated as a Place of Detention. The transfer of the 18-21 year old cohort to a separate dedicated unit was completed in early February 2014. On 12th February 2014 the Minister signed a Partial Closing Order for St Patrick's Institution which included the A, D and C Wings and specified, under Section 3 of the Prisons Act 1972, the closed area as part of Mountjoy Prison. The final wing, the B wing will continue to accommodate 17 year old remand prisoners until the new facilities in Oberstown are complete later this year. At that time all juvenile prisoners will then transfer to Oberstown.

[15] The Office of the Inspector is a statutory independent office established under the Prisons Act, 2007. The Inspector's reports are published on the website of the Department of Justice and Equality www.justice.ie.

160. With effect from 30 March 2015, the CDS may take 17 year old boys remanded to custody. This measure was put in place pending the full transfer of responsibility for all 17 year old boys. The full transfer of responsibility for 17 year olds to the CDS will take effect on the recruitment of a sufficient number of new care staff to work in the expanded CDS facilities which have been constructed over 2013-2015.

Children Detention Schools (CDS)

161. On 2nd April, 2012 the Minister for Children and Youth Affairs announced capital funding over three years had been secured to undertake the National Children Detention Facility Project at Oberstown. The project, to be completed in 2015, will deliver new facilities to extend the child care model of detention to all under 18 year olds ordered to be detained by the courts and replace existing detention buildings that are used by Oberstown Boys School.

(i) St Patrick's

162. From July 2012, the remit of the Ombudsman for Children was extended to 17 year old boys detained in St. Patrick's.

(ii) Legislation

163. The Children (Amendment) Act 2015 was enacted by the Oireachtas in July 2015 and will be commenced by way of Ministerial order on a phased basis. The first commencement order, providing for the amalgamation of the 3 current children detention schools and a number of other technical matters will be commenced before end 2015. The Act also contains necessary legal provision to delete all parts of the statute book which allow for the detention of children in adult prison facilities. These provisions will be commenced when the full transfer of responsibility for 17 year old boys to the CDS is being implemented. Other provisions in the Act relating to remission of sentence and disciplinary procedures in the CDS, will be commenced early 2016.

164. The Department of Justice and Equality is preparing legislation for the complete closure of St. Patrick's and its removal from the statute book. This legislation will mean that the courts will no longer have the power to remand or sentence any person to detention in St. Patrick's and it can then be closed in full.

(iii) Children Detention Schools integration

165. The Irish Youth Justice Service (IYJS) of the Department of Children and Youth Affairs continues to work with the Board of Management, the management and staff of the Children Detention Schools towards a number of operational improvements including measures to integrate and standardise procedures. The ultimate goal is a single national detention facility on the Oberstown campus through the integration of the 3 Children Detention Schools.

166. Progress has been made in areas including:

- New care staff roster providing flexible deployment across the 3 CDS came into operation in February 2013.
- Recruitment and appointment of a Campus Manager for the Oberstown site in December 2013.
- Recruitment programme for care staff to manage the new facilities is currently ongoing.

- Development of a shared service approach including payroll, catering, domestic services/cleaning, maintenance, transport, security and administration.
- Implementation of integrated care policies to promote children's welfare, safeguard children from harm or abuse and protect staff from potential false allegations.[16]

(iv) Education Strategy in the CDS

167. IYJS works with the Department of Education and Skills (DES) and the Dublin and Dún Laoghaire Education and Training Board (DDLETB) to provide educational services to children in the CDS. Together IYJS and DDLETB published the "Education Strategy for the Children Detention School Service 2010-2013". IYJS, in conjunction with the DDLETB and the DES, initiated work on the follow-on strategy which will apply to all children up to the age of 18 years who are detained.

(v) ACTS Service

168. IYJS and the Child and Family Agency (CFA) have worked to develop a clinical service. The Assessment, Consultation and Therapy Service(ACTS) is a national service providing clinical services to children placed in special care units managed by CFA and CDS, as well as short term interventions for children returning to their community to support them to re-engage with mainstream services . ACTS provides a flexible service which means that as children move between these placements, ACTS will continue to provide clinical services. All children remanded or committed to the CDS receive a mental health screening.

169. Ongoing work to standardise the reporting procedure to deal with reports requested by the courts from the CDS and the Probation Service and to develop a process to coordinate input from the ACTS team is taking place.

Articles 12, 13 and 14

Reply to the issues raised in paragraph 18(a), 18(b), 18(c), 18(d) and 18(e)

(18a)

170. A new complaints procedure has been introduced in the IPS which meets best practice and our international obligations. The model contains four separate categories of complaints. Category A Complaints are most serious level of complaints (assault, serious intimidation of prisoners by staff, etc.) and involve an independent investigation by an external investigator/s on behalf of the IPS.

171. Category B Complaints (discrimination, verbal abuse of prisoners by staff, inappropriate searches, etc.) fall to be investigated by a Chief Officer with recourse to appeal to the prison Governor.

172. Category C Complaints are essentially service complaints where a prisoner is unhappy with the level of service in a particular prison (visits, phone calls, etc.) and fall to

[16] The following policies, procedures and guidelines accompany the Safeguarding Policy: Guidelines for Good Practice; Reporting Child Protection Concerns; Complaints Procedure; Role of Social Worker in Child Protection Proceedings; Guidelines for Recognising Poor Practice. Abuse, Bullying and Mental Health Problems. An IYJS Child Welfare Advisor is employed who deals with child welfare and protection issues as well as standards, inspections and complaint mechanisms in detention.

be investigated by a Prison Officer with the possibility of appeal to a Chief Officer if the prisoner is unhappy with the outcome or resolution of his/her complaint.

173. Category D Complaints relate to complaints against professionals such as dentists, doctors etc. Such complaints will be referred in the first instance to the prisons' medical officer for possible resolution and, if this is not possible, to the relevant professional body responsible for regulating the professional involved. All prisoners have free and open access to complaint forms and designated complaint boxes are placed around all areas of prisons.

(18b)

174. In the majority of cases, complaints continue to be investigated even when a request is submitted by the complainant to withdraw the complaint. This is to ensure there is no intimidation in relation to submission of complaints. Staff are made aware of this practice during training. The Statutory Instrument SI 11/2013 underpinning the Category A Complaint procedures is explicit in this. SI 11/13 makes any intimidation or inducement in relation to a complaint part of the complaint investigation. Any attempt to influence whether through intimidation or inducement, or an attempt to influence the sentence management of a prisoner will also be investigated.

(18c)

175. Rule 57B of the Prison Rules 2007 addresses complaints concerning allegations of ILL Treatment: This Rule shall apply to any complaint made after the Rule comes into operation by any person alleging — (i) assault or use of excessive force against a prisoner, or (ii) ill treatment, racial abuse, discrimination, intimidation, threats or any other conduct against a prisoner of a nature and gravity likely to bring discredit on the IPS. These complaints have been categorised as Category A complaints. Since the introduction of the complaints procedure in November 2012 (to end March 2015) there have been 240 complaints investigated under the category A procedures within the IPS.

(18d)

176. Under 57B 5 (c) if the complaint is withdrawn, the Governor, or the Designated Officer where the Governor is the subject of the complaint, shall inquire as to why the complaint was withdrawn, document the reasons given and forward a report to the Director General. If there is any evidence of any threat or inducement for the complainant to withdraw the complaint, the initiation of disciplinary proceedings shall be considered.

177. Some cases where the allegation was investigated and not upheld, did result in a Code of Discipline being initiated by the Governor.

178. Category A Complaints are investigated by a team of independent investigators appointed from a panel. In addition, the Inspector of Prisons has oversight of the complaints system.

179. The IPS is currently carrying out a review of compliance with complaint procedures and timelines across all prisons. This review will inform any further requirements or changes to the Complaints Policy.

(18e)

An Garda Síochána

180. In respect of allegations made against members of the Garda Síochána, the Garda Síochána Ombudsman Commission (GSOC) was established as a statutory independent

body, under the Garda Síochána Act 2005, to provide independent oversight of complaints made against members of the Garda Síochána.

181. GSOC has a hugely important role in ensuring that public confidence in the Garda Síochána is safeguarded, and has extensive powers under the 2005 Act to enable it to carry out its responsibilities.

182. GSOC directly investigates complaints involving allegations of criminality, and its investigative staff have full police powers to do this. It may refer other complaints to the Garda Commissioner for investigation under the Garda disciplinary code, and it may maintain oversight of progress in those investigations. GSOC has the authority to make recommendations to the Garda Commissioner concerning disciplinary proceedings, and also to send a file to the DPP where it feels that the conduct under investigation may constitute an offence.

183. Victims of ill-treatment are entitled to pursue a claim against the State for damages. The civil courts in Ireland adjudicate upon these matters. Claims pursued against the Garda Commissioner are managed by the Chief State Solicitor's Office. If the Court finds in favour of the plaintiff damages can be awarded. There are a range of damages that a court may award. Compensatory damages can be awarded to compensate the plaintiff for any loss he/she has suffered, and to put him/her in the same position as if the ill-treatment had not been committed. It provides for financial and non-financial loss. Special damages may also be awarded to include loss of earnings, medical expenses and future losses. Punitive damages can be awarded by the court to signify disapproval, condemnation or denunciation of the defendant's act.

Reply to the issues raised in paragraph 19(a), 19(c), 19(d) and 19(e)

(19a)

Prisons

184. Since the introduction of the complaints procedure in November 2012 (to end March 2015) there have been 240 complaints investigated under the category A procedures within the IPS. While such investigations do not result in prosecutions or convictions, incidents can be reported to the Gardai who can initiate a criminal investigation.

Children Detention Schools

185. The information at Appendix B is for all complaints which were brought to the attention of CDS and investigated. No prosecutions or convictions resulted from these complaints.

An Garda Síochána

186. The Garda Síochána is not in the position to provide accurate information on 19(a) and 19(b) as a person's occupation is not a mandatory field on PULSE and may not be routinely recorded as part of an investigation.[17]

[17] The PULSE system is the primary Garda computer application that is used by An Garda Síochána for policing purposes. New functionality continues to be developed to enhance the PULSE system.

(19c)

187. All interviews of detained persons are recorded on video recording devices in Garda interview rooms. The Criminal Justice Act, 2011, has, as yet, a number of sections which have not commenced.

(19d)

188. The Garda Síochána Amendment Act 2015 has resulted in the substitution of a new section 106 for section 106 of the Garda Síochána Act 2005.

189. The main purpose of the Garda Síochána (Amendment) Act 2015 is to amend the Garda Síochána Act 2005 to expand the remit and powers of the GSOC. Section 10 of the Act replaces section 106 of the Garda Síochána Act 2005 which is concerned with the examination by GSOC of certain Garda practices, policies and procedures. The new section allows GSOC, for the first time, to carry out such an examination on its own initiative. Previously it could only do this when requested by the Minister.

190. A commencement order with an operative date of 27th April was signed by the Minister.

191. In 2014 GSOC received 2,242 complaints which contained 5,124 allegations. This represented an 11% increase on the previous year.

192. In 2014 the Ombudsman Commission sent 26 files to the DPP.

193. We have been unable to establish the origin of the figures quoted in the question. However, GSOC have provided the following by way of response.

194. Since 2007, the Ombudsman Commission has sent 197 files to the DPP who directed 53 prosecutions. It should be noted that the Ombudsman Commission has a policy to send some files in the public interest e.g. where there has been a death, notwithstanding the fact that the conduct disclosed would not normally meet the threshold for the sending of a file to the DPP. The threshold mentioned refers to the evidential standard required to be met in order for the matter to be sent by GSOC to the DPP and therefore to be considered by the DPP with a view to prosecution. The decision to prosecute or not in such cases is a matter solely for the DPP.

195. Of the 26 files sent to the DPP in 2014, the DPP decided to prosecute in four cases relating to three Gardaí and two others.

196. Ten cases, involving ten Gardaí and three others came before the courts in 2014. The court outcomes of those trials that concluded were as follows: 1 member of the Garda Síochána pleaded guilty; 1 member of the public was found guilty; four cases were dismissed.

197. In an effort to provide efficient and effective service for its various stakeholders GSOC has invested considerable time and energy in decreasing the duration of investigations arising from complaints.

198. Measures taken to improve investigation times include;

- A review process, implementing standard control measures, was implemented across all criminal investigations during 2014 which has resulted in a considerable reduction in median time taken to close criminal investigations.
- Concerted efforts were undertaken in the second half of 2014 to streamline GSOC's admissibility process and to reduce the time taken to make admissibility decisions.
- The Garda Síochána put in place a new administrative system during 2013, whereby requests for documentation from GSOC were to be channelled through a dedicated

e-mail address and team, who would be responsible for ensuring that responses were provided within the maximum time limit of 30 days agreed in the Protocols between the two organisations.

(19e)

199. GSOC has seen an increase in complaints over the last year (11% more than the previous year). GSOC also anticipate an increase in workload arising from the new responsibilities accorded by the Protected Disclosures Act 2014 (which enables members of the Garda Síochána to make disclosures to GSOC), and the amendments to the Garda Síochána Act 2005.

200. Resources and funding are kept under continuing review. The recent budget granted GSOC an increase of €1 million in their allocation for 2015 to resource the organisation's activities. Arrangements have been put in place for a recruitment campaign for additional staff.

Reply to the issues raised in paragraph 20, 20(a), 20(b), 20(c), 20(d) and 20(e)

(20)

201. The general position in relation to this matter has previously been set out:

- The Government accepted all the recommendations of the Ryan Report and published its Implementation Plan in July 2009.
- The provisions governing the Ryan Commission's work precluded the disclosure of the names of persons identified as perpetrators.

(20a)

202. The Government accepted all the recommendations of the Ryan Report and published its Implementation Plan in July 2009. This Plan set out 99 actions to address each of the recommendations in the Ryan Report, and includes proposals considered essential to further improve services to children in care, in detention and at risk. The fourth and final Annual Monitoring Report on the Ryan Implementation Plan was laid before the Oireachtas on 13 March 2015.

203. In general, a range of actions were progressed across the various agencies charged with delivery of the Implementation Plan. For example:

- Establishment of a new dedicated statutory agency, the Child and Family Agency (CFA) on 1st January 2014.
- Preparation of legislation to put elements of Children First: National Guidance (2011) on a statutory basis. The Children First Bill 2014 was published in April 2014 and is currently proceeding through the Houses of the Oireachtas.
- Continued roll out of Children First implementation across Government Departments through the Children First Inter-Departmental Group CFIDG).

What are the plans to continue ensuring the Ryan Report Implementation Plan is fully implemented, including any new body that may be established to replace it?

204. The Monitoring Group which was established to oversee the Implementation of the Plan included representatives from the Department of Children and Youth Affairs, the HSE (now the CFA), HIQA the IYJS, the Department of Education and Skills, An Garda Síochána and the Children's Rights Alliance and was chaired by the Minister for Children and Youth Affairs. With the publication of the Final Progress report, the Monitoring Group

has concluded its work and has been stood down. The vast majority of the recommendations (i.e. 94 out of a total of 99), have been implemented or are being implemented on an on-going basis.

205. The five incomplete actions are in relation to the erection of a memorial to the survivors of institutional abuse; a longitudinal study of children in care; the maintenance of records of children in care and the development of an archive for same, and research into best practice in family law court processes. As the Government has committed to the full implementation of all 99 of the Implementation Plan actions, the Minister for Children and Youth Affairs will liaise with relevant Government colleagues and the CFA as regards implementation and has undertaken to keep the Government informed of progress until full implementation is achieved.

206. A CFIDG has been established at which both the CFA and An Garda Síochána are represented, together with those Government Departments that have direct or indirect contact with children and young people. Under the Children First Bill 2014, the CFIDG will be put on a statutory basis, and it proposed that its membership will comprise of representatives from all Government Departments. The purpose of the CFIDG is to promote the importance of Children First compliance across Government and to ensure consistency of approach.

207. The CFIDG is a forum for members to raise child protection issues of general concern, or with a cross-Departmental or cross-sectoral dimension. In this respect, it is expected that the group will have a key role in relation to ongoing monitoring and mainstreaming of significant child welfare and protection issues.

208. Finally, the themes raised in the Ryan Report will be integrated, on an ongoing basis, as relevant into the work of DCYA and the Child and Family Agency.

(20b)

209. Caranua, the Residential Institutions Statutory Fund, devised an outreach and awareness raising strategy to ensure that people eligible to apply to the Fund were aware of its existence and how to go about making an application. The strategy is multi-faceted and ongoing and includes:

- An information leaflet outlining what the Fund can offer to eligible survivors and including the "application form part 1" has been produced and distributed in Ireland and the United Kingdom.
- For countries outside of Ireland and the United Kingdom, leaflets and posters are available in Irish Embassies and direct contact has been made with Irish welfare and other relevant organisations.
- Organisations in contact with potential applicants have placed Caranua information on their websites and in some cases have made direct contact with individuals to advise them about Caranua.
- The Caranua website (www.caranua.ie) is a key platform for communication to survivors, their family, friends and professional carers.
- A programme of support and information for survivor support organisations that are engaged in providing support, information and assistance to applicants is being provided.
- Targets outreach sessions with applicants where they can discuss their application one-to-one with Application Advisors.

- An information event held in May 2015 in England hosted by Caranua that included information stands from up to twenty organisation providing supports to survivors, both targeted and mainstream organisations.
- Monthly information updates on the Caranua website.

(20c)

210. At the end of February 2015 payments totalling €14,770,130 had been made to 1,476 people.

(20d)

211. The number of investigations remains the same as in the previous report; namely, fifteen cases were referred to the DPP which recommended a prosecution in one case.

212. There is one outstanding investigation file in respect of which investigations are ongoing with a view to forwarding an investigation file to the DPP. As noted below, it will be a matter for the DPP whether to recommend a prosecution in this case.

213. In relation to the question of redress, please note the following:

Residential Institutions Redress Board

214. As set out in the 2012 update to this recommendation, the independent Residential Institutions Redress Board was established in December 2002 pursuant to the Residential Institutions Redress Act, 2002 to provide fair and reasonable financial awards to victims of institutional childhood abuse.

215. By 25th March 2015, the Redress Board had received a total of 16,628 applications and had finalised 16,623 cases (with 5 applications to be finalised). Of these, 15,553 have resulted in awards, with the remaining 1,070 cases either being refused, withdrawn or resulting in no award. Applicants to the Redress Board are entitled to independent legal advice and the overwhelming majority of applicants availed of such advice.

216. Awards are made in accordance with the framework proposed by the independent Compensation Advisory Committee which advised on the appropriate levels of compensation for injuries related to childhood abuse and was published in January 2002. The average value of awards made at 25th March 2015 is €62,235. The overall expenditure on the scheme is expected to be some €1.2bn.

217. The original closing date for receipt of applications was 15th December, 2005. However, section 8 of the Act allows the Redress Board to extend the period for receipt of an application in exceptional circumstances and requires it to extend the period when it is satisfied that an applicant was under a legal disability. The Residential Institutions (Amendment) Act, 2011 removed the Board's power to consider applications made on or after 17th September, 2011. A total of 2,766 late submissions were received by this time. Of these 2,199 have been allowed, 365 have been disallowed and 202 have been withdrawn, files closed or deemed invalid.

Support and rehabilitation for former residents

218. A range of other measures are in place to support victims of institutional abuse, including the Origins Family Tracing Service, operated by Barnardos, which is a dedicated and customised service for former residents wishing to trace family members with whom they have lost contact. By 25th March 2015, a total of 1,327 tracing cases had been completed.

Residential Institutions Statutory Fund

219. The Government established the Residential Institutions Statutory Fund in March 2013 to support the needs of survivors. The Fund, which uses the name Caranua, commenced accepting applications in January 2014. The Fund is being financed from the €110m contributions offered by the congregations that ran many of the institutions (to date contributions of cash and associated interest amounting to some €81.6m have been received.) On the establishment of the Statutory Fund, the Education Finance Board was dissolved – the new Fund will provide support for education.

220. Eligibility to benefit from the Statutory Fund is open to those former residents who received awards from the Residential Institutions Redress Board or equivalent court awards. See above material relating to Caranua for further details.

What measures, if any, will be taken regarding the 14 cases submitted to the DPP but on which he recommended no prosecutions. In the one case in which an individual was sentenced, why were 18 months of a 2-year sentence suspended?

221. The DPP, who is independent in the performance of her functions, decides whether to charge people with criminal offences and what the charges should be. If, following an investigation by An Garda Síochána, the DPP determines that no prosecution should ensue, there are no further measures open to the Government of the State party to prosecute the person concerned.

222. The sentencing of a person convicted of crime in any given case is a matter for the presiding Judge.

What is the government ... doing to ensure prosecution and punishment as well as redress in the many cases that were uncovered as a result of the Ryan report?

223. As the Committee has noted previously, the provisions governing the Ryan Commission's work precluded the disclosure of the names of persons identified as perpetrators, hence this information was not available to An Garda Síochána for the purposes of initiating criminal investigations. It is also important, as noted above, to bear in mind that, in comparing the number of prosecutions with the number of awards made under the Redress Scheme, the standard of proof to sustain a criminal prosecution or conviction is higher than would have applied for the purposes of granting redress.

224. A dedicated helpline was established by An Garda Síochána for persons who wished to provide information relating to criminal behaviour connected with what the Ryan Report revealed. 181 calls have been received all of which have been assessed and fully investigated by the Garda authorities. This led to the submission of fifteen investigation files to the DPP. The relevant notifications in accordance with the Children's First Guidance were made in relation to calls to the helpline.

225. An Garda Síochána has, over many years, carried out a sizeable number of investigations into allegations of abuse associated with institutions dealt with in the Ryan Report, which have resulted in prosecutions and convictions over and above those noted in this response, but which for the reasons set out above cannot be correlated to the cases identified in the Ryan Report itself.

226. See material above in relation to redress.

Are any of the results of the 18 serious incidents, including deaths of children in care, being reviewed? What measures have been taken to examine suicides and to investigate whether any deaths from natural causes actually resulted from beatings or inter-prisoner violence, or at the hands of police guards in the facilities examined by the Ryan report?

227. It is not clear what deaths are being referred to or what the references to inter-prisoner violence, or at the hands of police guards refers to.

(20e)

228. The review of An Garda Síochána Policy on Sexual Crime, Crimes against Children and Child Welfare has been completed and the updated policy is available on the Garda website: www.garda.ie

229. In relation to the other matters, please see material provided above.

Memorial – Ryan Report Recommendations

230. Following its appointment in October 2009, the Memorial Committee consulted widely during 2010 both by meeting with survivor groups and holding a public consultation process. The OPW sought and received planning permission, subject to conditions, from Dublin City Council for the proposed memorial which was to be integrated with the Garden of Remembrance. However, An Bord Pleanála upheld a third party appeal and refused planning permission for the proposed memorial. The Department of Education and Skills is consulting with the OPW and Dublin City Council in relation to the identification of a suitable central Dublin location and on how best to progress the project.

Reply to the issues raised in paragraph 21(a), 21(b), 21(c), 21(d), 21(e) and 21(f)

(21a)

231. The Government directed that all State agencies fully cooperate with the McAleese Committee. An extensive search of all records held by Government Departments, State Agencies and Local Authorities that were in any way related to Magdalen Laundries was undertaken and the results were forwarded to the Committee together with an undertaking by the relevant Secretaries General of Government Departments confirming the detail and results of the searches.

232. The four religious congregations which operated the Magdalen Laundries offered full access to all their archives on a voluntary basis and provided extensive records relating to over 14,000 admissions.[18] There is nothing to suggest that any material has been withheld by them.

233. A significant number of witnesses who visited or were resident in Magdalen Laundries were interviewed on a voluntary basis. Submissions were invited from the public and the representative and advocacy groups provided significant amount of material.

234. In conclusion there is no evidence to suggest that any of the sources of information deliberately withheld or provided false information or that there is some untapped source of information in existence. In the light of the fact that the period under examination covers approximately 70 years, it cannot be categorically stated that all evidence has been uncovered but there is no reason to believe that an inquiry with power to compel disclosure of evidence would uncover any further significant material.

[18] Chapter 7 of the McAleese report provides some detail on the records in questions and verification of same.

235. Please see www.justice.ie for the Terms of An Ex gratia scheme for women who were admitted to and worked in Magdalen Laundries. St Mary's Training Centre Stanhope Street and House of Mercy Training School Summerhill, Wexford.

Please clarify how the McAleese Committee, comprised of representatives of the government agencies involved with the running of the Magdalen Laundries, can be considered as definitive solely because the chairperson was independent

236. The Government is satisfied that the McAleese report is objective and unbiased.

237. No Government Department was involved in the running of a Magdalen Laundry. These were private institutions under the sole ownership and control of the religious congregations concerned and had no special statutory recognition or status. They did interact with certain Government agencies, sometimes on the same basis as a commercial enterprise and other times as the provider of social services for particular individuals for which they received State funding. None of the Departmental representatives on the Committee had any prior engagement with or relationship with the Magdalen Laundries.

(21b)

238. All testimonies were considered but it was not feasible to include all the material in the final report. The testimony of 10 women who were actually resident in Magdalen Laundries was provided to the McAleese Committee by the Justice for Magdalenes. Seven of these were identified - three were anonymous. It was not considered appropriate to include the testimony of anonymous persons as no verification was possible.

Was survivor testimony given a lesser rank or status in this inquiry than written records of the State and the religious orders?

239. No.

Please clarify what measures the State ... has taken to investigate their claims promptly and thoroughly? ..., please inform the Committee the reasoning behind the State party's view that it is first necessary to identify "systematic" torture before launching an inquiry into claims of physical or psychological abuse at the Magdalen Laundries?

240. There was one allegation of sexual abuse committed by one of the woman resident there against another. A small number of women did describe instances of physical punishment during their time in the institutions. However the large majority of women said they had neither experienced nor seen other girls or women suffer physical abuse in the Magdalen Laundries. The majority of women who engaged with the Committee had been at Reformatory or Industrial Schools prior to their admission to a Magdalen Laundry. They stated clearly that the widespread brutality which they had witnessed and been subjected to in Industrial and Reformatory Schools was not a feature of the Magdalen Laundries. The majority of the women did report verbal abuse but not of a nature that would constitute a criminal offence. There is no doubt that the working conditions were harsh and the work physically demanding. The Committee interviewed a number of medical doctors who had attended the women in Magdalen Laundries and who had in some cases reviewed earlier records. They did not recall any indication of evidence of physical maltreatment.

241. No factual evidence to support allegations of systematic torture or ill treatment of a criminal nature in these institutions was found. In the absence of systematic criminal behaviour, the normal arrangements for the investigation of allegations of criminal behaviour are considered adequate.

242. The representative groups have indicated that the women do not wish to participate in any further investigation. The scheme recommended by Judge Quirke and implemented

by the Government takes this into account and provides for payment without any need for the applicant to show she has suffered any physical and psychological abuse or assault.

243. The Government has made it clear on a number of occasions that if any woman has been the victim of criminal behaviour, she should report it and it will be investigated.

(21c)

244. The State party is satisfied that the Report provides the best estimate of the number of persons who entered Magdalen Laundries. It cannot be presumed that all those who entered were subject to abuse. The McAleese Report does not purport to provide a comprehensive and accurate evaluation of the number of those who were subject to criminal acts or abuse.

Please clarify whether the State party compelled evidence from the private actors that ran the Magdalen Laundries and whether and why there may be plans to do so in the future

245. The religious congregations who ran the Magdalen Laundries provided evidence on a voluntary basis. They were not compelled by the State to do so. There are no plans to compel them to do so in the future. However, if a complaint is made leading to a criminal prosecution, evidence would be compellable in so far as it relates to that prosecution. Similarly if a civil action is taken evidence would be compellable in so far as it relates to those civil proceedings.

Please indicate whether the figures provided voluntarily by the private actors have been subjected to independent audit

246. The records of the religious congregation's entries and departures were cross checked with relevant State records to verify their accuracy. This was only possible in a small percentage of cases.

247. As explained in chapter 20 of the McAleese Report, the financial figures were supplied by the accountancy and auditing firms employed by the religious congregations. The material included in Chapter 20 was subject to review by independent auditors. However, the base figures are historical and were not subject to a new independent audit.

(21d)

248. The majority of entrants into Magdalen Laundries were not "confined" there in any legal sense (although because of their personal circumstances there may have been very limited options as to alternative places they could reside). The McAleese Report does however identify a small proportion of entrants who could be regarded as "confined". These include:

- Women subject to criminal sentences of imprisonment given temporary release from prison on condition they resided in a particular institution during the term of their prison sentence, a person who breached such a condition would be unlawfully at large and subject to arrest and committal to prison.
- Some of the 10 Magdalen Laundries were used as places of detention and remand (these would involve short periods, normally less than a month), a person who left such a place in breach of a court order would be unlawfully at large and subject to arrest.
- Girls committed by a court to an industrial school or reformatory and (i) admitted to a Magdalen Laundry, (ii) released subsequently on licence to a Magdalen Laundry and (iii) former industrial or reformatory school children referred to a Magdalen

Laundry during the period of their post-discharge supervision. A significant number of the women active in the representative groups come from this category.

249. In its meetings with representative and advocacy groups, with individual women and in public statements in the National Parliament and elsewhere, it has always been made clear that there is no statute of limitations for serious criminal offences and that if any woman who had been admitted to a Magdalen Laundry and was the victim of criminal behaviour, she could make a report to the police who would investigate the matter.

250. There has been no demand from individual women for an investigation into specific complaints of abuse against them.

Please inform the Committee whether the State party has considered establishing an ombudsperson or representative to assist the alleged victims in lodging complaints

251. The question of appointing an ombudsperson or representative to assist alleged victims has not arisen.

Please clarify what formal authorization or legislation, if any, is required to ensure statutory powers of investigation for such inquiries

252. If the alleged abuse constitutes criminal behaviour, the police have full powers to investigate and the DPP then decides whether or not there should be a criminal prosecution.

253. (If the alleged abuse involves a Government Department, there is a statutory Office of the Ombudsman who may investigate complaints relating to public bodies. However in view of the non-public nature of Magdalen Laundries, it is unlikely that their powers of investigation would be applicable.)

254. A person who has suffered unlawful abuse (whether criminal or not) may initiate a civil action in the courts where orders of discovery may be made and witnesses compelled to give evidence. A statute of limitations does apply to such civil actions.

255. There is statutory provision to provide for the establishment of Tribunals of Inquiry for matters of "urgent public importance" with powers to compel the production of evidence.

256. There is statutory provision for the establishment of Commissions of Investigation to investigate matters considered to be of "significant public concern" with power to compel the production of evidence.

(21e)

257. A copy of the Scheme approved by Government following on from the report of Justice Quirke is attached at Appendix C. To date, 783 applications have been received and decisions have been made on 88% of the cases. 518 applicants have received their lump sum payments at a cost of nearly €19m.

Please indicate how the State party will ensure the "ex gratia scheme" announced by Judge Quirke to assist survivors will be independently monitored, and how will any appeals be handled

258. The operation of the scheme is open to scrutiny through Parliamentary Questions, Freedom of Information requests, media queries and review by the Comptroller and Auditor General and the Public Accounts Committee of the Parliament.

259. The scheme provides for an appeal mechanism within the Department and then a further appeal to the Office of the Ombudsman.

How will any former persons confined in the Magdalen Laundries but currently living outside Ireland be informed, and included under the scheme?

260. Over 20% of applications received to date are from applicants who are now residing outside of Ireland (164 applications received from UK, 10 from USA, 1 from Switzerland, 2 from Cyprus and 4 from Australia).

261. The announcement of the scheme received worldwide coverage. In addition, in late 2014 the Department of Foreign Affairs and Trade circulated an information note on the Scheme through their embassies around the world to the local Irish communities. The Irish Women Survivors Support Network in the UK, who received a grant from the Irish Government, has also circulated thousands of newsletters to the wider Irish community informing them of the Scheme and they continue to raise awareness and assist clients in this regard.

Please report on how many persons have approached the Government seeking redress or participation in the "ex gratia scheme" so far and how many have received payments and other assistance and in what amounts

262. To date, 796 applications have been received and decisions have been made on 99% of the cases. 593 applicants have received their lump sum payments at a cost of nearly €22m. In addition to the lump sum payment each woman is entitled to a top up payment to bring her weekly income from the State to €230.30 if aged 66 or over and €100 if under that age.

263. The Department of Social Protection established a separate scheme to give effect to this recommendation. Payments are backdated to the 1st August 2013 so the women will not be at a loss.

264. The women will also receive enhanced medical cards under the ex gratia scheme. The legislation which was required to give effect to this recommendation has now been passed and is from 1st July, 2015. The legislation makes provision for a broad range of health services to be provided free of charge to these women. These services will include; general practitioner, medical and surgical services, drugs, medicines and surgical appliances, nursing services, home help services, dental, ophthalmic and aural services, counselling services, chiropody services and physiotherapy services.

(21f)

265. Persons in the scheme residing outside the State generally receive higher weekly payments than Irish residents as weekly payments to Irish residents take into account existing State benefits while those residing abroad receive the full weekly payment regardless of any local state benefits received.

266. The taxation liabilities and entitlement to social and other benefits of those persons residing outside Ireland are determined by the State of residence and are outside the control of the State. Where there are specific mechanisms in states abroad that can reduce liability, arrangements can be made to avail of them. The Government is engaging with the UK authorities in relation to how payments under the Scheme will be treated in their jurisdiction.

Please inform the Committee how health care will be provided to those former Magdalen women living outside Ireland

267. The enhanced medical card does not currently provide card holders with access to health services outside of Ireland. Card holders may use their cards when visiting Ireland and have been given contact details for liaison persons in the local areas who they may

contact in advance of a planned visit or during a visit. The Department of Health and the HSE are currently exploring the practical arrangements to be put in place in respect of the specified primary and community health services for participants of the Scheme who are living outside of Ireland. It is recognised that all health systems around the world vary in organisation and procedures and each system is unique. Taking this wide variation into account, it will be necessary for these arrangements to be dealt with on an administrative basis by the HSE. Options on arrangements are currently being examined.

268. Given the wide variation of different countries' health systems, access to equivalent medical services for participants living abroad will be dealt with on an administrative basis by the HSE, as appropriate to the specific circumstances of the individual and the country of residence and its health system.

Reply to the issues raised in paragraph 22

269. In July 2012, the remit of the Ombudsman for Children was extended to include the examination of complaints from children detained in St Patrick's Institution.

270. In addition, St Patrick's, as with all prisons and places of detention, is currently subject to two regular systems of independent inspection: the Inspector of Prisons and the Prison Visiting Committee.

271. The Inspector of Prisons makes announced and unannounced visits to all prisons, including St Patrick's, throughout the year. The current incumbent, Judge Michael Reilly, has shown a particular interest in juveniles in the prison system and has published inspection standards for juvenile offenders in St Patrick's as a supplement to his general inspection standards.

272. More generally, the function of Prison Visiting Committees is to visit at frequent intervals and hear any complaints which may be made to them by any prisoner. They report to the Minister any abuses observed or found by them in the prison.

273. As referred to previously a new prisoner complaints procedure was introduced by the IPS with effect from the 1 November 2012. The new procedure allows for all complaints made by prisoners alleging serious ill treatment, use of excessive force, serious intimidation/discrimination or threats by a member of staff of the IPS to be investigated by an independent investigator.

Article 16

Reply to the issues raised in paragraph 23

274. Irish legislation (i.e. the Non-Fatal Offences Against the Person Act 1997 and Section 246 of the Children Act 2001) provides clear legal deterrents in relation to assaults on children.

275. The ongoing development of a strong child protection framework is reflected in a suite of legislation – enacted or in the course of preparation – in the area. Developments involve legislation covering the fundamental reform of children protection and welfare services (Child and Family Act 2013) and the reporting of abuse (Children First Bill, 2014).

276. Ireland has a specific legislative prohibition on the use of corporal punishment in certain non-family settings. In schools, Section 24 of the 1997 Act abolished the immunity of teachers from criminal liability in respect of physical chastisement of children; in children detention schools Section 201(2) of the Children Act 2001expressly prohibits the use of corporal punishment as a form of discipline; in pre-school settings the Child Care (Pre-School Services) Regulations 2006 prohibit the use of corporal punishment. In foster

care and residential care settings, there are a number of administrative criteria in relation to its non-use. Steps are currently in progress to establish a statutory basis to the explicit prohibition of corporal punishment in these settings.

277. Under current legal provisions, a defence of reasonable chastisement may be invoked by a parent, or a person acting in loco parentis (other than a teacher), in proceedings under the 1997 and 2001 Acts. It is the intention to consider, within the Irish legal framework, the possibility of removing this common law defence.

278. The Irish Constitution provides strong protections to the family, and to parents as the primary educators of their children, from undue influence by the State. The Government is committed to keeping under review the introduction of a ban on corporal punishment in all settings. It will do so having regard to developments at the Constitutional level and to the related jurisprudence.

Reply to the issues raised in paragraph 24

279. On 7th April 2015 there were 106 women prisoners in the Dóchas.[19] The recommended bed capacity is 105. On the same date in Limerick female prison there were 18 prisoners. The recommended bed capacity is 28. The average number of prisoners in custody in Ireland has risen in the last 10 years, from 3,199 during 2004 to 4,158 during 2013, an increase of over 29%. Likewise the total number of committals to prison has also risen sharply during the same period, from 10,657 in 2004 to 17,026 in 2012 – an increase of over 59%. However the trend of increasing committals to prison seems to have abated. 2013 saw the first significant decrease in prison numbers since 2007. There were 15,735 committals to prison in 2013 which is a decrease of 7.6% on the 2012 total of 17,026.

280. There has been a significant increase from 1990 to date in the numbers of women committed to prison. The following will illustrate this point:

- 1990 – 155 committals
- 2005 – 402 committals
- 2012 – 2,092 committals

281. Figures suggest that the vast majority of women committed to prison are sentenced for less than 12 months, with the majority of these sentenced for less than three months. It is also clear that the tendency to sentence for less than three months has greatly increased in the period from 2005 to 2012. In 2012 those committed for less than three months accounted for 83% of all committals.

282. The Joint Probation Service and IPS Women's Strategy 2014-16 entitled "An effective response to women who offend" sets out how the two agencies will provide tailored interventions for women with the aim to reduce offending among women and improve outcomes.

283. Both agencies are working together to develop a strategy which ensures a more targeted response to women offenders.

284. The IPS worked with a number of other statutory agencies in relation to the development of the Abigail centre in Finglas, Dublin. The centre will play a significant role in providing a holistic wraparound support system to vulnerable women, which in turn should benefit the broader community, by offering opportunities/services to reduce the risk

[19] Dóchas Centre is a closed female prison located on Mountjoy Prison campus, Dublin.

of re offending, i.e. by helping women address addiction issues, access accommodation, attain employment and also help to keep women out of prison.

285. One of the Strategic Actions contained in the recently launched Joint IPS/ Probation Service Strategic Plan 2015-2017 is to build on the success of the Community Return Programme, an incentivised scheme for earned temporary release under which offenders may be granted early temporary release in return for supervised community service.

286. Over 670 prisoners have taken part in the initiative since it commenced in October 2011. This figure includes 34 women offenders who have been released to placements with organisations such as the St Vincent de Paul recycling warehouse in Railway Street, Dublin 1, the Tivoli Project based in Dun Laoghaire and the Deonach Programme which is located at the Tallaght Probation Project.

287. The Community Return Programme has been a positive development and has significantly helped these prisoners to successfully resettle in their communities.

288. Women in the Dóchas[20] engage in voluntary work for Barnardos, Aware and Temple Street Hospital.

289. The Joint Strategy also contained a commitment by the IPS to "explore the development of an open centre/open conditions for women assessed as low risk of re-offending". This commitment was acknowledged in the Report on the Strategic Review of Penal Policy who also recommended that "a greater focus on step down facilities, supported accommodation, and the use of more community based open conditions for female offenders".

290. In 2014, the Director General of the IPS established a working group to explore the options for the development of an Open Centre for Women. Work is progressing.

Reply to the issues raised in paragraph 25

291. The Interim Report of the Steering Group on the review of the Mental Health Act 2001 was published on 21 June 2012 and is available on the website of the Department of Health (www.health.gov.ie).

292. An Expert Group was established in August 2012 to carry out the second and substantive phase of the review which is principally tasked with fleshing out the Steering Group recommendations. The Group has completed its work and published its report on 5 March 2015 which is also available on the website of the Department of Health.

293. The Expert Group report contains a total of 165 recommendations and will provide a roadmap for amending mental health legislation to ensure that individuals with mental illness are afforded quality care in the most appropriate environment suitable to their needs. The Expert Group report contains specific recommendations on the areas highlighted by UNCAT.

294. In respect of a voluntary patient, the Group recognised that the definition of a voluntary patient needed to be amended to explicitly refer to both the need for the person to have capacity (with support if required) to make decisions and also to convey his/her consent when and where required. The Group therefore recommended the following:

- A voluntary patient should be defined as a person who has the capacity (with support if required) to make a decision regarding admission to an approved centre and who, where the person retains capacity, formally gives his/her informed consent

[20] Dóchas Centre is a closed female prison located on Mountjoy Prison campus, Dublin.

to such admission, and subsequent continuation of voluntary inpatient status and treatment on an ongoing basis as required.[21] Lack of capacity on admission does not mean that further decisions relating to the patient's treatment should not be discussed with and put to the patient as and when each decision is required. It is important not to automatically presume that each person continues to lack capacity when decisions are required.

- Where a person is deemed to lack capacity and therefore cannot give informed consent, then admission cannot take place on a voluntary basis even if a substitute decision maker (decision-making representative) has been appointed under the proposed Assisted Decision-Making (Capacity) Bill.
- All voluntary patients on admission to an approved centre should be fully informed of their rights, including information relating to their proposed treatment as well as their rights regarding consent or refusal of treatment and their right to leave the approved centre at any time.

295. The Group recommended that the power to change the status of a voluntary patient to involuntary should continue. However this power should, insofar as is possible, only be used in very exceptional circumstances.

296. The Group recommended that where a Consultant Psychiatrist who has the clinical responsibility for the treatment of a patient, a Registered Medical Practitioner, Registered Psychiatric Nurse or Mental Health Professional (registered with the appropriate professional body) considers that a voluntary patient would satisfy the criteria for detention, they may detain such patient for a maximum period of 24 hours initially during which time an Authorised Officer should be called. The Authorised Officer will consider the alternatives available, offer advice and mobilise support for the service user and family where necessary. Where the Authorised Officer believes that the person satisfies all the criteria for detention and there is no alternative to the detention, they will make an application for involuntary admission in the normal manner. A Registered Medical Practitioner should examine the person within 24 hours of the application being made and determine if there is a need to make a recommendation for admission. A change to the Act was also recommended whereby it should no longer be a requirement that a patient must first indicate a wish to leave the approved centre before the involuntary admission process is initiated.

297. The latest figures available indicate that there were 541 re-gradings from voluntary to involuntary notified to the Mental Health Commission in 2013.

298. The Department of Health has begun the process of drafting a General Scheme of Bill to amend existing mental health legislation to reflect the recommendations of the Expert Group report. In addition, the Minister for Health has prioritised an early amendment to the legislation in respect of the administration of Electro-convulsive Therapy and the administration of medicine. In both these cases, the existing law will be amended to ensure that where a patient with capacity refuses ECT or refuses medication, this decision will be respected.

299. Since 1 November, 2013 HIQA are able to set and monitor standards for designated centres which include residential services provided to persons with disabilities. HIQA are also now empowered to undertake investigations as to the safety, quality and standards of

[21] This provision should also apply equally to children and their parents or persons as required acting in loco parentis. (See also section 2.23 Children).

these residential services. The reports of all the independent inspections are published on the HIQA website (www.hiqa.ie).

300. The Assisted Decision Making (Capacity) Bill is the responsibility of the Department of Justice and Equality. It is anticipated that any new mental health legislation arising from the proposals recommended in the Expert Group review of the Mental Health Act 2001 would be able to take account of the agreed finalised legislative provisions of the Capacity Bill. The intention is to have the Assisted Decision-Making (Capacity) Bill 2013 enacted by the end of 2015.

Reply to the issues raised in paragraph 26

301. Established legislation[22] provides clear legal deterrents against assaults, in whatever setting, which cause unnecessary suffering or injury to a child's health or seriously affect his or her wellbeing.

302. The ongoing development of a strong child protection framework is reflected in a suite of legislation – enacted or in the course of preparation – in the area. Developments include legislation covering the reporting of abuse, and the fundamental reform of children's services.

303. Family support services, including parenting supports, have been provided by the HSE for many years under the Child Care Act 1991. In addition, the Family Support Agency (FSA) has been providing, through its Family Resource Centre Programme, a range of key services to improve the functioning of the family units.[23] The reform of children's services has involved the establishment, with effect from 1 January 2014, of a dedicated national statutory body – the Child and Family Agency – which has subsumed the family support functions of the HSE and the FSA. The new Agency's express statutory functions require it to support and encourage the effective functioning of families, including preventative family support services aimed at promoting the welfare of children.

304. Legislative provision in the area of corporal punishment is being kept under review.

305. Since 2006, a National Longitudinal Study (*Growing Up in Ireland*) has monitored the development of almost 20,000 children.[24] In 2009, the Study's reported findings included different approaches to discipline by the parents of nine-year-old children. Mothers were asked to describe the frequency with which they used a range of discipline strategies and 57% reported they *never* used smacking, 32% said that they *rarely* used it, 11% said that they used it *now and again*, and almost no mother reported using it *regularly* or *always*. Study findings published in September 2013 provided data from primary caregivers of the three-year-old cohort which indicated that, from a list of eight discipline techniques, the one used least was "smacking"; less than 1% reported using smacking "regularly".

306. Separated Children seeking asylum (SCSA) are deemed to be in need of care and protection under the Child Care Act, 1991, and are entitled to equity of treatment and rights as other children in need of care and protection. The immediate and ongoing needs of separated children seeking asylum (SCSA) as well as their application for refugee status are the responsibility of the Child and Family Agency (formerly the HSE) in accordance with the Refugee Act, 1996 (as amended) and the Child Care Act, 1991. Where children are identified by An Garda Síochána, at the point of entry, the circumstances are investigated

[22] Section 246 of the Children Act 2001.

[23] This includes information, advice, support as well as education and training opportunities.

[24] This has collected a number of waves of data from each cohort (i.e. infants at 9 months and at 3 and 5 years, and the child cohort, at 9 and 13 years).

and where concerns about the safety and welfare are identified, the child is placed into the care of the Agency.

307. The Agency has a national operational policy on the standards and services to be provided to separated children seeking asylum. The policy seeks to achieve equity and equality of services to separated children seeking asylum vis a vis all children at risk.

308. All separated children seeking asylum, on coming into care, are initially placed in a residential assessment centre to allow for an early and comprehensive assessment of their needs and wishes. HIQA inspects, against national standards, foster care services, including private ones. HIQA also inspects CFA residential centres while the Agency registers and inspects voluntary and private children's residential services. HIQA reports are published.

309. Separated children seeking asylum are subject to the care planning and aftercare planning process, which identifies particular supports they may need on reaching 18. The CFA and RIA meet to review the plans for separated children seeking asylum as they approach their 18th birthday. Where the Agency identifies a young person at 18 as particularly vulnerable, they keep that young person within the care/aftercare system.

310. The number of separated children seeking asylum has declined steadily since its peak in 2001. In 2001, 1,085 cases of separated children seeking asylum were referred to the HSE for consideration. In 2014, there were 97 referrals to the Separated Children Seeking Asylum Team of the CFA of which 86 were placed in the care of the Agency.

311. The table at Appendix C sets out the number of separated children seeking asylum in Ireland that have gone missing on a yearly basis between 2005 and 2014; and the number of these children's whereabouts that remained unknown at year end.

Guardian ad Litem for separated and unaccompanied minors

312. The Child Care Act 1991 sets out the responsibilities and the powers of the CFA as the statutory body charged with providing care to children who are in their care, either by way of a voluntary agreement or a court order. These responsibilities of the Agency are currently delegated to social workers. The foster care Regulations refer to the child in foster care being visited by an "authorised person" as often as the Agency considers necessary.

313. The appointment of an authorised person, a social worker, applies to separated children seeking asylum. There is a special team of social workers dedicated to separated children seeking asylum. A key part of their role is to advocate for the children (given there are no family members to do so or to provide support).

314. The CFA's statutory obligations in respect of children in its care are set out in the Child Care Regulations 1995 and require it to:

(a) Place the child in a suitable foster care placement, residential care or other suitable arrangement;

(b) Arrange for a medical assessment;

(c) Place the child's name and details in a register;

(d) Compile a case record;

(e) Prepare a Care Plan;

(f) Visit the child in their placement and supervise the quality of their care;

(g) Intervene to take appropriate action, if following a visit, the authorised person is of the view that the placement is not in keeping with all relevant regulations (i.e. residential care or foster care);

(h) Formally review the Care Plan, consulting with the child, taking into account the report from the residential or foster care setting, school report.

315. In the main these legal obligations are delegated to the social worker, although the Agency is now delegating independent chairs to oversee the Care Planning and Review process.

Missing Children

316. The circumstances of children who go missing from care are varied, and the reasons for their disappearance are often complex but not always of a sinister nature. Furthermore most of these children and young persons return safely to their families or care setting after a very short period. While the number of unaccompanied minors who have gone missing and who have not been recovered has decreased significantly in recent years, the CFA is maintaining a focus on this area and this work is underpinned by the Protocol between An Garda Síochána and the CFA which sets out the Policy, Procedure and Strategy for the Management of Children Who Go Missing From Care. This protocol relates to all children who go missing from care and was developed in 2009.

317. In 2012 the CFA with An Garda Síochána revised the protocol to make it more robust and the revised protocol included the introduction of Absence Management Planning. In light of the particular concerns regarding unaccompanied minors presenting to our ports who go missing upon arrival or during transfer to their place of care, the CFA worked collaboratively with the Garda National Immigration Bureau to develop an additional joint protocol which enhances the capacity of both agencies to locate such missing children and young persons.

318. Finally, a high level Strategic Liaison Committee between An Garda Síochána and the CFA has been established to oversee all issues relating to the protection and welfare of children including children missing from care.

Other issues

Reply to the issues raised in paragraph 27

319. An Garda Síochána maintains and operates a central analysis section and repository for dealing with information relating to threats from terrorism. This dedicated section collects and analyses information and disseminates intelligence to appropriate stakeholders both internal and external. It also maintains liaison relationships with external security and policing partners.

320. The Garda Síochána represents Ireland on a number of international forums and working groups, where information is exchanged in respect of terrorist threats to Ireland and Europe, and contributes to collective threat assessments compiled within the various working groups.

321. Internal threat assessments are prepared and updated on an ongoing basis and all sources of information are utilised with the resultant intelligence being disseminated to appropriate operational units and organisations.

322. Every member of the Garda Síochána receives basic training in counter terrorism and intelligence gathering techniques. Members who enter specialist units which are engaged in more focused counter terrorist work receive further, more intensive counter terrorist training. Members attached to the security service element of the national police service attend counter terrorism courses and/or seminars as appropriate, both within and outside the EU.

323. A range of specialist investigative techniques are utilised in Ireland, many of which have a basis in primary legislation and are subject to independent judicial oversight.

324. Any person arrested and detained may challenge the legality of their detention by making a habeas corpus application to the High Court. This process is available to all detained prisoners in Garda custody including persons detained for suspected terrorist offences.

325. The courts determine the admissibility of evidence on a case by case basis, having regard to the Irish Constitution, relevant legislation and common law. The treatment of persons during their period of detention is subject to close scrutiny during court trials. In all cases material admitted as evidence can be challenged in the Courts as to its accuracy, reliability and compliance within human rights legislation and safeguards.

Reply to the issues raised in paragraph 28

Red Cross Project

326. The Red Cross project is operating in all 14 prisons in Ireland. In this partnership between the IPS, Irish Red Cross (IRC) and Education and Training Board (ETB) inmates are accepted as special status IRC volunteers who follow a programme of learning and action called Community Based Health and First Aid (CBHFA).

327. They learn about first aid and healthy living and then prepare ways of passing on this information to their prisoner community. They link to the prison surgeries so that information passed around the community is consistent with current needs and act as an extension of healthcare into the community at cell and landing level.

328. Apart from raising prison health and hygiene, the active presence of the Red Cross Movement within the prison communities of all our prisons is changing the custodial environment and improving relationships between prisoners as well as between prisoners and staff.

329. Evaluation reports are available on the IRC website for 2012 and 2013. Over 500 prisoners have been trained as inmate Irish Red Cross volunteers and new groups are trained each year in every prison.

Tackling Youth Crime – Youth Justice Action Plan 2014-2018

330. The Youth Justice Action Plan 2014-2018 was launched in February 2014. It builds on the work done through the National Youth Justice Strategy 2008-2010 with a greater focus on performance through evidence-based policies. The Plan forms part of the National Anti-Crime Strategy (NACS) being developed as part of the White Paper on Crime process by the Department of Justice and Equality (DJE). The Plan forms part of the national children's policy framework "Better Outcomes, Brighter Futures: the National Policy Framework for Children and Young People 2014-2020" developed by the DCYA.

331. The focus of the Plan is to continue the downward trends in high volume crime and detention.

332. This Plan has been developed in consultation with key stakeholders[25] Information received through consultations in the development of the CYPPF in the DCYA and in the development of the NACS in the DJE has also informed the Plan.

[25] Involving representatives from the Department of Justice and Equality; An Garda Síochána; Courts Service; Probation Service; Health Service Executive; National Education Welfare Board; and Board

333. The Garda Síochána engages in a review process with the DJE to update legislation to reflect Ireland's commitment under the UN Convention against Torture and other Cruel Inhuman or Degrading Treatment or Punishment. The introduction of the Criminal Justice (Surveillance) Act, 2009, for example, places An Garda Síochána surveillance operations on a statutory basis. This legislation places safeguards and restrictions on a State organisation from conducting surveillance operations without authorisation from the appropriate authority.

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of Management of the Children Detention Schools; youth justice workers and line managers attached to the Garda Youth Diversion Projects.